IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.253 OF 2007

Shri. Mallappa Shivling Nandani. ..Appellant.
Vs.
Yashwant Sahakari Bank Ltd. Miraj. ..Respondent.

Mr.S.D.Patil for the Appellant.

CORAM : A.M.KHANWILKAR,J.
DATED : July 12, 2007.

P.C.

1. This second appeal has been filed by the decree holder challenging the adverse finding recorded by the Appellate Court. The counsel for the appellant was called upon to make good his stand that second appeal against an adverse finding is maintainable. The learned counsel has relied upon the decision of the Apex Court in case of **Deva Ram and another Vs. Ishwar Chand and another reported in (1995) 6 Supreme Court Cases Page 733,** in particular, Paragraph 31 of the said decision. This decision is not an authority on the issue that second appeal against the adverse finding is maintainable. Section-100 of the Code of Civil Procedure permits filing of Second Appeal against the "Decree". There is no decree passed against the appellant. In fact, the decree is in favour of the appellant. Suffice to observe that the adverse finding given by the Appellate Court cannot be made basis to file second appeal, not being a decree. Hence, this second appeal is dismissed as not maintainable.

(A.M.KHANWILKAR, J.)